

BUSINESS MEETING

Wednesday, July 12, 2017

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 9:50 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Boozman, Wicker, Fischer, Moran, Rounds, Ernst, Sullivan, Cardin, Merkley, Gillibrand, Booker, Markey, and Harris.

Also Present: Senator Shelby.

STATEMENT OF THE HONORABLE JOHN BARRASSO, A UNITED STATES
SENATOR FROM THE STATE OF WYOMING

Senator Barrasso. I call this business meeting to order. I thank everyone for coming this morning. We are here to consider three nominations, five bills, and five resolutions.

Ranking Member Carper and I will give our opening statements. After that, other members may make remarks. We do have a reporting quorum at this point, so I would essentially like to move to the agenda, but we will be happy to listen to all opening statements that people would like to make. After we have completed the business portion of the meeting, if members want to make remarks, we will keep the meeting going for that. Once the business meeting concludes, we will immediately begin this morning's scheduled hearing.

Today we consider two nominees for the Nuclear Regulatory Commission, one nominee for Assistant Administrator of the Environmental Protection Agency.

I applaud the President's nominations of Ms. Caputo, Mr. Wright, and Ms. Bodine. They all have proven themselves to be well qualified, experienced, and dedicated public servants. Their confirmation will fill critically important roles in protecting Americans' public health and safety. I urge all my colleagues to vote yes on each of the nominations.

We also will consider five bills and five resolutions:

S. 822, the Brownfields Utilization, Investment, and Local Development Act. The BUILD Act reauthorizes and expands eligibility for brownfields cleanup grants and makes the use of those grants more flexible.

S. 1447, the Diesel Emissions Reduction Act, reauthorizes and improves the Environmental Protection Agency's DERA program, which provides funding to projects that replace or retrofit older diesel vehicles, engines, and equipment.

S. 1359, the John F. Kennedy Center Reauthorization Act, reauthorizes funding for the Kennedy Center.

S. 810 paves the way for construction of a bridge in Christian County, Missouri.

S. 1395 updates the current map delineating a coastal barrier resources system unit in Delaware by removing an area that was mistakenly included when the current map was made.

We will also consider five resolutions to approve prospectuses for the General Services Administration leases.

S. 822 and S. 810, we are marking up the substitute amendment to each of the bills previously circulated. I want to thank the members for their work to reach agreement on these amendments.

I would also like to thank the members for their work in reaching agreement on the Diesel Emissions Reduction Act.

I will now turn to our Ranking Member for his statement.

Thank you, Senator Carper.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Thanks, Mr. Chairman.

Good morning, everybody. I am one of those glass half full people, and I try to find the good in every situation. It gets more challenging as time goes by, but I want to start with what is good on today's markup. Mr. Chairman, colleagues, I think there is a lot of good that you have talked about and that we can look forward to in the next several minutes.

I am pleased, for example, that we again have had the opportunity to work across party lines, as is our tradition, and on multiple pieces of legislation that will have real impacts on people's lives. I am really encouraged by the conversations that have gone on in the last 24 hours with your staff on an issue that is important to all of us.

I want to take just a moment just to thank all of our staffs for the hard work that they have done that will enable us to slip through this day, this markup, I think, pretty quickly.

These bills are bipartisan; they are critical for local economic development, job creation, and job growth. I think it is a win-win in my book.

One of the bills that I have particular interest in is the Diesel Emissions Reduction Act of 2017, DERA. In 2005, our good

friend, George Voinovich, came to me with the idea for DERA, and ever since then I have been one of the program's strongest supporters. DERA provides voluntary incentives to refit older diesel engines with American-made technology. It is probably one of the most effective EPA programs resulting in enormous environmental and public health benefits, while creating jobs here at home.

Today we extend this commonsense program for five more years. Adoption changes proposed by our Chairman that encourage all committees, big and small, can use DERA more effectively. I want to thank him, and I especially want to thank Jim Inhofe for his leadership, and Sheldon Whitehouse for his leadership as we move this critical legislation.

I want to thank you, Mr. Chairman, also for adding S. 1395 to the business meeting agenda, the bill which I sponsored jointly with my Delaware colleague, Senator Coons, to remedy a mistake in the boundary of a unit, coastal barrier resource system located north of Bethany Beach, just a mistake that was made. The Coastal Barrier Resources Act enacted in 1982, when some of us were elected to the House, shields American taxpayers from liabilities that comes from building on previously undeveloped coastal barrier islands, something that Ben and I know something about.

The original legislation identified these undeveloped and

vulnerable islands on maps, and I will leave it for the record what I continue to say on that point.

We are also going to be considering S. 822, the Brownfields Utilization, Investment, and Local Development Act, which reauthorizes brownfields grants programs at EPA. Each grant dollar that we spend at EPA on this program leverages something like \$16.00 from State and private partners. I think for every dollar we spend in DERA we leverage about \$19 in local monies.

Working with the Chairman's staff and Senator Sullivan's staff, I think we have been able to do something really important that was brought up at one of our hearings while I was away, some of our Alaska Native corporations were being treated. I think we have righted a wrong, and thank you for your leadership on that, Senator Sullivan.

While we are considering GSA prospectuses today, I think we are taking this action less than 24 hours after GSA cancelled the procurement process for the proposed new FBI headquarters. Abrupt action for something that has been in the pipeline for a long time. It is deeply troubling.

I hope we can work together. I understand that we are having some good conversations. We hope we can continue those. This is a big deal for a number of people on this Committee and I think for people in this region and for the folks in the FBI.

We are going to hear today several nominations. First

among these nominations, Susan Bodine, who has been tapped to lead EPA's Office of Enforcement and Compliance Assistance. Susan has been a collegial partner to my staff and I think to all of our staffs, and the Agency's gain will be our Committee's loss.

However, I said when her nomination was announced, I am unable to support any nominees to the EPA until Administrator Pruitt responds to our many unanswered letters from this side of the aisle to him by members of this Committee. I very much appreciate the constructive meeting -- I have discussed this with our Chairman -- on this topic that took place at the end of June between EPA staff, our staff, my staff, and the Chairman's staff.

I also appreciate that shortly after that meeting EPA provided a substantive, though incomplete, response to a letter we sent EPA on its enforcement efforts. We hope to soon receive complete responses to the balance of our very reasonable oversight requests.

Mr. Chairman, that leads me to briefly mention NRC nominees. I will just say very briefly we have two good nominees before us. We have already confirmed Kristine Svinicki so that the NRC can function. I would like to get the other two done.

I would also like to make sure that we pair those two names

with the name of a fellow who is already there, Commissioner Barron, Jeff Barron, who is in his last year, his last, I think, 10, 11 months, and we would like to get him done. We would like to pair them together and get them all done and provide real certainty and predictability on a path forward and have five excellent people on the NRC.

With that, I will ask the rest of my remarks, which could go on for hours, be made part of the record.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Yes.

Senator Cardin.

Senator Cardin. Yes. And I am going to be very, very brief. I just really wanted to share with my colleagues a discussion I had with the Chairman and Ranking Member about my concern with what the GSA did on the cancellation of the FBI consolidation. I think this is extremely dangerous to our national security and I think it is going to be extremely costly to the taxpayers of this Country.

And I thank the Chairman and Ranking Member because they ignored the wishes of this Committee in the authorizations that we gave, as well as the appropriation process, and I look forward to this Committee exercising its oversight function.

Senator Barrasso. And thank you for your leadership in this and for taking the time to visit with me yesterday and our commitment to move ahead with the hearing and asking for additional information.

As we talked earlier, The Washington Post editorial this morning I think had a good point on what we are dealing with here. This has been a project a long time in the making and to just abandon it that way, without ever coming to the Committee or to others, is something that there is a role for Congress to play in this, specifically since the amount of money that would be wasted, I think, by making that decision they did is one that

we need to look into. So thank you for your leadership there.

Now that the members have arrived, we are going to defer additional statements until the end of the meeting. The Ranking Member and I have agreed to bring up each nominee for a separate vote, and the Ranking Member has requested that each of the nominees receive a roll call vote.

The Ranking Member and I have agreed to vote on the remaining items en bloc by voice, but members may choose to have their votes recorded individually, and we would be happy to do that. The Ranking Member and I have further agreed that S. 1447, the Diesel Emissions Reduction Act, which was introduced on June 27th, replaces the text that was circulated with the notice on June 23rd. So this introduced bill is identical to the text that we have circulated.

So, to begin with, I would like to call up presidential nomination 560, Ms. Annie Caputo, of Virginia, to be a member of the Nuclear Regulatory Commission for the term of five years, expiring June 30th, 2021.

I move to approve and report the nomination favorably to the Senate. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. The Clerk will call the roll.

The Clerk. Mr. Booker?

Senator Booker. Yes.

The Clerk. Mr. Boozman?

Mr. Boozman. Yes.

The Clerk. Mrs. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. Yes.

The Clerk. Mr. Carper?

Senator Carper. No.

The Clerk. Ms. Duckworth?

Senator Carper. Yes by proxy.

The Clerk. Mrs. Ernst?

Senator Ernst. Yes.

The Clerk. Mrs. Fischer?

Senator Fischer. Yes.

The Clerk. Mrs. Gillibrand?

Senator Gillibrand. No.

The Clerk. Ms. Harris?

Senator Harris. No.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Moran?

Senator Moran. Aye.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. Aye.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye

The Clerk. Mr. Whitehouse?

Senator Carper. Yes by proxy.

The Clerk. Mr. Wicker?

Senator Wicker. I am torn between yes and aye.

[Laughter.]

The Clerk. Mr. Chairman?

Senator Barrasso. Aye.

The Clerk will report.

The Clerk. Mr. Chairman, the yeas are 15, the nays are 6.

Senator Barrasso. Then we have approved the nomination of Ms. Caputo to be a member of the Nuclear Regulatory Commission, which will be reported to the full Senate for approval.

I would now like to call up presidential nomination 562, Mr. David Wright, of South Carolina, to be a member of the

Nuclear Regulatory Commission for a five-year term expiring June 30th, 2020.

I move to approve and report the nomination favorably to the Senate. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. The Clerk will call the roll.

The Clerk. Mr. Booker?

Senator Booker. No.

The Clerk. Mr. Boozman?

Mr. Boozman. Yes.

The Clerk. Mrs. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Carper?

Senator Carper. No.

The Clerk. Ms. Duckworth?

Senator Carper. No by proxy.

The Clerk. Mrs. Ernst?

Senator Ernst. Yes.

The Clerk. Mrs. Fischer?

Senator Fischer. Aye.

The Clerk. Mrs. Gillibrand?

Senator Gillibrand. No.

The Clerk. Ms. Harris?

Senator Harris. No.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Moran?

Senator Moran. Aye.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. Aye.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye.

The Clerk. Mr. Whitehouse?

Senator Carper. No by proxy.

The Clerk. Mr. Wicker?

Senator Wicker. Aye.

The Clerk. Mr. Chairman?

Senator Barrasso. Aye.

The Clerk will report.

The Clerk. Mr. Chairman, the yeas are 12, the nays are 9.

Senator Barrasso. We have approved the nomination of Mr. Wright to be a member of the Nuclear Regulatory Commission, which will be reported to the full Senate for approval.

I would like to call up presidential nomination 460, Ms. Susan Bodine, of Maryland, to be Assistant Administrator of the Office of Enforcement and Compliance Assurance of the Environmental Protection Agency.

I move to approve and report the nomination favorably to the Senate. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. The Clerk will call the roll.

The Clerk. Mr. Booker?

Senator Booker. No.

The Clerk. Mr. Boozman?

Mr. Boozman. Yes.

The Clerk. Mrs. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Carper?

Senator Carper. No.

The Clerk. Ms. Duckworth?

Senator Carper. No by proxy. Senator Duckworth, no by proxy.

The Clerk. Mrs. Ernst?

Senator Ernst. Yes.

The Clerk. Mrs. Fischer?

Senator Fischer. Aye.

The Clerk. Mrs. Gillibrand?

Senator Gillibrand. No.

The Clerk. Ms. Harris?

Senator Harris. No.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Moran?

Senator Moran. Aye.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. Aye.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye

The Clerk. Mr. Whitehouse?

Senator Carper. No by proxy.

The Clerk. Mr. Wicker?

Senator Wicker. Aye.

The Clerk. Mr. Chairman?

Senator Barrasso. Aye.

The Clerk will report.

The Clerk. Mr. Chairman, the yeas are 12, the nays are 9.

Senator Barrasso. Thank you very much. We have approved the nomination of Ms. Bodine to be Assistant Administrator of the Office of Enforcement and Compliance Assurance of the Environmental Protection Agency, which will be reported to the full Senate for approval.

I would like to now call up the remaining items en bloc. I move approval of the Barrasso, Carper, Inhofe, Markey, Sullivan, Booker, and Whitehouse substitute amendment to S. 822 and report S. 822, as amended; to approve the manager's substitute amendment to S. 810 and report S. 810, as amended; approve reports S. 1447, S. 1359, and S. 1395; and approve five General Service Administration resolutions en bloc. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. All those in favor, please say aye.

[Chorus of ayes.]

Senator Barrasso. Opposed, say no.

[No audible response.]

Senator Barrasso. In the opinion of the Chair, the ayes have it. We have approved S. 822, S. 810, S. 1447, S. 1359, S. 1395, which will be reported favorably to the Senate. We have also approved five GSA resolutions.

The business part of this meeting is finished.

I would be happy to recognize any member who wishes to make a statement on the nominations, legislation, or resolutions we have just approved.

And I would ask the Clerk to clarify the last two votes that I think have been announced as 12 to 9 and may have been 11 to 10 by the count of some members. If we could just double-check those last two votes, please.

The Clerk. For the nomination of Susan Bodine, the yeas are 12, or 11, and the nays are 10.

Senator Barrasso. Thank you. And the other? Mr. Wright.

The Clerk. For the nomination of David Wright, the yeas are 11 and the nays are 10.

Senator Barrasso. Thank you for the clarification.

Senator Carper. Can we just count them one more time?

[Laughter.]

Senator Barrasso. Would any member like to be recognized?

Senator Markey.

Senator Markey. Thank you, Mr. Chairman. I just want to thank you and thank Ranking Member Carper, but to thank my friend, Jim Inhofe. We worked very hard on the brownfields bill last year and it was then stopped over in the House. We have an even better product this year that really is going to provide our capacity to clean up all of these contaminated sites, not just in Massachusetts, but all across the Country, which are a legacy of 100 years of neglect.

I just think that it is a real tribute once again to the Committee, and I thank you, Chairman, for working with me on this legislation, and I thank all the rest of the members of the Committee as well. And I yield back to you, Mr. Chairman.

Senator Barrasso. Thank you.

Anyone else like to make a statement?

Senator Sullivan.

Senator Sullivan. Mr. Chairman, I want to thank you and the Ranking Member. Ranking Member Carper already mentioned the amendment that I had, but it stemmed from some, I think, very compelling testimony we had here a couple months ago that a lot of members witnessed, and it is essentially righting a wrong, enabling Alaska Native members to be able to develop their land as was promised by the Congress, and I just appreciate everybody working in a bipartisan way to help address this issue, which is

important to some very important constituents of mine. So I want to thank the Chairman and the Ranking Member and everybody else on that. Thank you.

Senator Barrasso. Thank you, Senator Sullivan.

Anyone else like to make any comments at this time as part of the business meeting?

If not, I would like to submit the Committee's Fiscal Year 2018 Views and Estimates document sent to the Senate Budget Committee, dated March 10, 2017, for the record. These estimates, signed by Ranking Member Carper and by me, highlight our support for funding of the Diesel Emissions Reduction Act. The document states, and I won't go through the whole thing here, but that the Committee supports funding of the Diesel Emissions Reduction Act established pursuant to the 2005 Energy Policy Act. Without objection, that will be submitted.

[The referenced information follows:]

Senator Barrasso. I now ask unanimous consent that the staff have the authority to make technical and conforming changes to each of the matters approved today.

With that, the business meeting is concluded and adjourned.

[Whereupon, at 10:08 a.m., the committee proceeded to other business.]